

PATENT

Application Serial No. 09/660,579
Docket No. 96-067-C1**REMARKS****A. INTRODUCTION**

Claims 1, 2, 10-12, 14, 15, 32-36, and 41-43 are pending and rejected.

Claims 38 and 39 were previously withdrawn.

Claims 1, 10, 14, 32, 39, 39, and 41 – 43 are independent.

Claims 1, 10, 14, 32, 39, 39, and 41 – 43 will be amended by this paper.

B. REQUEST FOR CONTINUED EXAMINATION (RCE)

This paper is being filed in response to an Office Action mailed June 6, 2005, and after a Notice of Appeal mailed October 11, 2005. We do not agree with any of the outstanding claim rejections. However, in light of business reasons, the documented delay in the appeals process, and the likelihood that prosecution would have been re-opened upon filing an appeal brief, we have decided to forego the opportunity to file an appeal brief at this time in order to expedite allowance of the present application. A Request for Continued Examination (RCE), along with the appropriate fee, is being filed concurrently to ensure consideration of these remarks.

C. SECTION 103(A) REJECTIONS

Claims 1, 2, 10-12, 14, 15, 32-36, and 42 stand rejected as unpatentable over Palmer (U.S. Patent No. 5,438,355), Field (U.S. Patent No. 4,410,911) and Pocock (U.S. Patent No. 5,014,125).

Claims 41 and 43 stand rejected as being unpatentable over Palmer, Field, Pocock, and Kurtz (The New York Times, April 14, 1991, "Technology: A Way to Hear Stock Quotes While Watching Cartoons").

We respectfully traverse all of the Examiner's Section 103(a) rejections.

However, without disclaimer we have amended each of independent Claims 1, 10, 14, 32, 39, 39, and 41 – 43 to recite embodiments in which generally *the requested supplemental audio information is transmitted to a speaker of a telephone*. We do not believe this current amendment is necessary for patentability, and we intend to pursue the subject matter of the pending claims as they stood prior to this and/or any prior amendment.

As discussed in the Specification, some described embodiments may include requested supplemental audio information transmitted to a telephone receiver. In one example, a customer may make a telephone call to request and to listen to the supplemental audio using the telephone (e.g., making a conventional telephone call):

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By utilizing his or her telephone, the customer communicates to the service controller 20 by making a conventional telephone call. In step S2, the customer dials the 900 number telephone number...and is connected to the service controller 20.

[Specification, page 15, line 36 to page 16, line 3]; and

In step S4, the service controller 20 plays the selected supplemental audio information synchronized to the action occurring on the television program 30.... The customer receives the supplemental audio information via the telephone. Of course, the customer can use a speaker phone or other speaker means to facilitate listening to the supplemental audio information.

[Specification, page 16, line 30 to page 17, line 2 (emphasis added)].

In contrast, Pocock does not suggest allowing a customer to listen to any audio using a telephone or through a speaker of a telephone. The Examiner asserts that Pocock teaches receiving supplemental audio information through a “telephone receiver or telephone interface circuit 122 of the user terminal” (page 3). We do not necessarily agree; regardless, Pocock does not suggest a caller or listener being able to listen to the supplemental audio information using a telephone or via a speaker of a telephone. To the contrary, Pocock describes receiving audio information via telephone lines but only describes providing that audio information to the “user terminal,” which then must provide all audio information to the television for it to be heard. Neither Field, Palmer, nor Kurtz suggests transmitting requested supplemental audio information via a speaker of a telephone.

Accordingly, we submit that all of the independent claims (Claims 1, 10, 14, 32, 38, 39, and 41 – 43) and all of the dependent claims contain allowable subject matter. We respectfully request reconsideration of Claims 1, 2, 10-12, 14, 15, 32-36, and 41-43.

We respectfully note that Pocock has nothing to do with a broadcast television program, but is instead limited to description of a system for providing still-video images via a specific channel for requested interactive content only.

We respectfully note that Field is specifically limited to combining different audio signals within a frequency band for a television channel. To modify Field to split up this combined audio signal (as suggested by the Examiner) would directly contradict the primary objective of the Field system and destroy its principle of operation.

Our silence with respect to the Examiner’s other various assertions not explicitly addressed in this paper, including assertions of what the cited

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reference(s) teach or suggest, the asserted motivations to combine the varied references, or the Examiner's interpretation of claimed subject matter, is not to be understood as agreement with the Examiner. As the claims are believed to be allowable at least in light of the present amendment for the reasons stated in this paper, we need not address the Examiner's other assertions at this time.


D. CONCLUSION

It is submitted that all of the claims are in condition for allowance. The Examiner's early re-examination and reconsideration are respectfully requested.

If the Examiner has any questions regarding this amendment or the present application, the Examiner is cordially requested to contact Michael Downs at telephone number (203) 461-7292 or via electronic mail at mdowns@walkerdigital.com.

Respectfully submitted,

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